

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:23-cv-00051-MR**

<b>CHRISTOPHER ANTHONY JUDD,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>BUNCOMBE COUNTY, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

**THIS MATTER** is before the Court on Plaintiff's Amended Application to Proceed in Forma Pauperis in this matter. [Doc. 4].

Pro se Plaintiff Christopher Anthony Judd ("Plaintiff") filed this action on or about February 28, 2023, pursuant to 42 U.S.C. § 1983. [Doc. 1]. Although Plaintiff's allegations arose while he was detained at the Buncombe County Detention Facility in Asheville, North Carolina, he has since been released from custody. [See Docs. 1, 1-1]. Plaintiff sought to proceed in forma pauperis (IFP). [Doc. 2]. Plaintiff's Application, however, was missing the final page, which includes information necessary to the Court's determination. [See id.]. The Court ordered Plaintiff to provide a completed Application before ruling on the motion and directed the Clerk to mail Plaintiff a copy of the Application to Proceed in District Court without Prepaying Fees

or Costs (Long Form) (AO 239) for Plaintiff to complete and return to the Court within 21 days of that Order. [Doc. 3]. Now before the Court is Plaintiff's Amended Application. [Doc. 4].

Federal courts can allow a litigant to prosecute or defend a civil action without paying the usual required fees if the litigant submits an affidavit containing a statement of the litigant's assets and demonstrating that he cannot afford to pay the required fees. 28 U.S.C. § 1915(a)(1). An impoverished plaintiff does not have to prove that he is "absolutely destitute to enjoy the benefit of the statute." Adkins v. E.I. Du Pont de Nemours & Co., 335 U.S. 331, 339 (1948). The individual seeking to proceed in forma pauperis need only show indigence or poverty sufficient to demonstrate her inability to provide for the necessities of life while paying the costs of litigation. Id. at 339-40. If a court determines at any time that the allegation of poverty made in an in forma pauperis application is "untrue," then the court "shall dismiss the case." 28 U.S.C. § 1915(e)(2)(A).

Plaintiff reports that he had an average monthly income of \$200.00 for the past twelve months from employment and that he expects to receive no income next month. [Doc. 4 at 1-2]. Plaintiff reports having \$1,550.00 in monthly expenses. [Id. at 4-5]. Plaintiff reports having no money in any bank account, no other assets, and that no one relies on him for support. [Id. at

2-3]. Plaintiff, however, has left certain portions of the Application blank, [see id. at 2], and he fails to account for the difference between his monthly expenses and income. That is, it appears that Plaintiff is receiving assistance in the form of gifts or public assistance to subsidize his living expenses, but he reports no such assistance. The Court, therefore, is without sufficient information to determine whether Plaintiff qualifies for IFP status. Plaintiff's motion, therefore, will be denied without prejudice. The Court will require Plaintiff to submit an amended motion to proceed in forma pauperis or pay the filing fee before it conducts its initial review of Plaintiff's Complaint. The Court will allow Plaintiff twenty-one (21) days to file an amended motion to proceed in forma pauperis, which must be completed in full as directed on the application or pay the filing fee in this matter. [See Doc. 4 at 1 ("Complete all questions in this application and then sign it. Do not leave any blanks: if the answer is '0,' 'none,' or 'not applicable (N/A),' write that response.")].

### **ORDER**

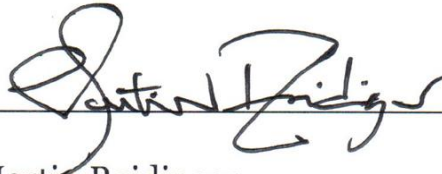
**IT IS THEREFORE ORDERED** that Plaintiff shall file a (Second) Amended Application to Proceed in District Court without Prepaying Fees or Costs (Long Form) (AO 239) or pay the filing fee within 21 days of this Order. If Plaintiff fails to timely comply with the terms of this Order, Plaintiff's Complaint may be dismissed without prejudice and without further notice to

Plaintiff.

The Clerk is instructed to mail Plaintiff a blank copy of the Application to Proceed in District Court without Prepaying Fees or Costs (Long Form) (AO 239).

**IT IS SO ORDERED.**

Signed: April 3, 2023

A handwritten signature in black ink, appearing to read "Martin Reidinger", is written over a horizontal line.

Martin Reidinger  
Chief United States District Judge

